

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:

ANTHONY KERR,

Debtor.

September 13, 2023
09:30 AM

Case No. 123-42356-NHL

Hon. NANCY HERSHY LORD
NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon the within application, Krista Preuss, Chapter 13 Trustee will move this court before the Hon. Nancy Hershey Lord, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, on September 13, 2023 at 09:30 AM or as soon thereafter as counsel can be heard, for an order pursuant to 11 U.S.C. 1307(c) dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

PLEASE TAKE FURTHER NOTICE, that any hearing on the within application will be held by telephone or video conference only. No in-person hearing will be held in the Courthouse.

All parties should register their appearance with **eCourt Appearances** at least 24 hours before the hearing. Attorneys with a CM/ECF account may find the program under the "Utilities" menu after logging on to CM/ECF. Those without CM/ECF accounts may access the program on the website at <https://ecf.nyeb.uscourts.gov/cgi-bin/nyebAppearances.pl>. Telephonic dial-in instructions are below. Videoconferencing information, if applicable, will be sent to registered participants by email; please note the email will not be sent until 48 hours before the hearing.

Dial-in Instructions:

1. Dial in Number 888-363-4734
1. Access Code – 4702754
2. Announce who you are each time before speaking
3. Avoid the use of a speaker phone (use a landline if possible)
4. All persons not speaking should mute their phones
5. Speak up and enunciate so that you can be heard and understood

PLEASE TAKE FURTHER NOTICE, that the hearing on the within application may be continued or adjourned from time to time without further notice other than an announcement of the adjourned date at the hearing.

Responsive papers shall be filed with the bankruptcy court and served upon the Chapter 13 Trustee, Krista Preuss, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules for the Eastern District of New York and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Jericho, New York
August 22, 2023

/s/ Krista Preuss

KRISTA PREUSS, TRUSTEE
100 JERICHO QUADRANGLE, STE 127
JERICHO, NY 11753
(516) 622-1340

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Hon. NANCY HERSHY LORD

APPLICATION

TO THE HONORABLE NANCY HERSHY LORD U.S. BANKRUPTCY JUDGE:

Nathan Z. Kaufman, Staff Attorney to KRISTA PREUSS, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on July 5, 2023, and, thereafter, KRISTA PREUSS was duly appointed and qualified as Trustee.
2. As of this date, the Debtor has failed to:
 - a. commence making Chapter 13 Plan payments to the Trustee as required by 11 U.S.C. § 1326(a)(1); and
 - b. file a Chapter 13 Plan, pursuant to by 11 U.S.C §1321 and Fed. R. Bankr. P. 3015(b) (the Plan filed at docket number 20 is blank outside the signature line); and
 - c. provide the Trustee with a copy of a federal income tax return or transcript for the most recent year, 7 days before first meeting of creditors pursuant to 11 U.S.C. §521(e)(2)(A)(i); and
 - d. provide the Trustee with disclosure documentation as required by E.D.N.Y LBR 2003-1; and
 - e. appear and be examined at the Section 341 Meeting of Creditors as required by 11 U.S.C. §343.
3. A delay has occurred that is prejudicial to the rights of creditors. The case must be dismissed under 11 U.S.C. § 1307(c)(1) and (c)(5).
4. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case, and such other and further relief as may seem just and proper.

Dated: Jericho, New York
August 22, 2023

s/Nathan Z. Kaufman
Nathan Z. Kaufman, Staff Attorney
Chapter 13 Trustee Krista Preuss

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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ANTHONY KERR,

CERTIFICATE OF SERVICE

Debtors.

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I, Nathan Z. Kaufman, declare under penalty of perjury that I have sent the attached document to the below listed entities in the manner shown, and prepared the Certificate of Service and that it is true and correct to the best of my information and belief.

Notice by first class mail was sent to the following persons/entities:

ANTHONY KERR
937 E 55TH STREET
BROOKLYN, NY 11234

Notice by electronic transmission generated by the ECF system to the following person/entities pursuant to Bankruptcy Rule 9036:

JPMorgan Chase Bank, N.A. c/o Logs Legal Network, sbarak@logs.com
Deutsche Bank National Trust Company c/o Robertson, Anschutz, Schneid, Crane & Partners, PLLC,
raqfelix@raslg.com
Constitution CR, LLC c/o Zeichner Ellman & Krause LLP, bleinbach@zeklaw.com

Transmission times for electronic delivery are Eastern Time zone.

This August 22, 2023

/s/Nathan Z. Kaufman

Nathan Z. Kaufman, Staff Attorney
Office of the Standing Chapter 13 Trustee
Krista Preuss
100 Jericho Quadrangle; Ste 127
Jericho, NY 11753
(516) 622-1340

CASE NO: 123-42356-NHL
Hon. NANCY HERSHY LORD

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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NOTICE OF MOTION AND APPLICATION TO DISMISS CASE

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KRISTA PREUSS, TRUSTEE
100 JERICHO QUADRANGLE, STE 127
JERICHO, NY 11753
(516) 622-1340